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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-ninth session
Agenda item 7

HUMAN RIGHTS OF INDIGENOUS PEOPLES

Ms. Attah, Mr. Boutkevitch, Ms. Daes, Mr. Guissé,
Ms. Gwanmesia and Mr. Hatano: draft resolution

1997/... Study on indigenous land rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Acknowledging that indigenous peoples in many countries have been deprived of their human rights and fundamental freedoms and that many of the human rights problems faced by indigenous peoples are linked to the historical and continuing deprivation of ancestral rights over lands, territories and resources,

Recognizing the profound spiritual, cultural, social and economic relationship that indigenous peoples have to their total environment and the urgent need to respect and recognize the rights of indigenous peoples to their lands, territories and resources,

Acknowledging that lack of secure land rights, in addition to continued instability of State land tenure systems and impediments to efforts for the promotion and protection of indigenous communities and the environment, are imperilling the survival of indigenous peoples,

Recognizing that United Nations organs and Member States have increasingly acknowledged that lands and natural resources are essential to the Economic and cultural survival of indigenous peoples, and that some States have enacted legal measures that uphold indigenous land rights or have established procedures for arriving at legally binding agreements on indigenous land-related issues,

Mindful of the development of relevant international standards and programmes which promote and affirm the rights of indigenous peoples to their lands and resources, in particular the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization, Agenda 21 adopted by the United Nations Conference on Environment and Development, World Bank Operational Directive 4.20, the draft Inter-American Declaration on the Rights of the Indigenous Peoples developed by the Inter-American Commission on Human Rights of the Organization of American States, and the draft United Nations declaration on the rights of indigenous people,

Recognizing that despite these international and national advances, problems continue to abound which impede the effective enjoyment of indigenous land rights,

Recalling that many States in which indigenous peoples live have yet to enact laws or policies regarding indigenous land claims or in other instances have not provided adequate implementing mechanisms concerning indigenous land rights that are mutually acceptable to the parties concerned,

Recalling also the activity of the United Nations, which lays the groundwork for a thorough inquiry into the subject of indigenous land rights, in particular, the Sub-Commission's study of the problem of discrimination against indigenous populations (E/CN.4/Sub.2/1986/7 and Add.1-4).

Recalling further the report and recommendations of the expert seminar on practical experiences regarding indigenous land rights and claims, held in Whitehorse, Canada, in March 1996 (E/CN.4/Sub.2/AC.4/1996/6),

Recalling its resolution 1996/38 of 29 August 1996, in which it recommended that the Commission on Human Rights authorize the appointment of Ms. Erica-Irene A. Daes as Special Rapporteur to conduct a comprehensive study on indigenous land rights,

Recalling also Commission on Human Rights decision 1997/114 of 11 April 1997 and Economic and Social Council decision 1997/... of ... July 1997 endorsing the appointment of Ms. Erica-Irene A. Daes as

Special Rapporteur with the mandate to prepare a working paper on indigenous people and their relationship to land with a view to suggesting practical measures to address ongoing problems in this regard,

Having heard the important introductory statement of the Special Rapporteur on indigenous peoples and their relationship to land,

Having considered the comprehensive preliminary working paper on indigenous peoples and their relationship to land submitted by the Special Rapporteur (E/CN.4/Sub.2/1997/17 and Corr.1),

1. Expresses its deep appreciation and thanks to the Special Rapporteur for her introductory statement and the working paper on indigenous peoples and their relationship to land;

2. Requests the Secretary-General to transmit the working paper to Governments, indigenous peoples and intergovernmental and non-governmental organizations, as soon as possible, for their comments and suggestions;

3. Requests the Special Rapporteur to prepare her final working paper on the basis of the comments and information received from Governments, indigenous peoples and others and to submit it to the Working Group on Indigenous Populations at its sixteenth session and the Sub-Commission at its fiftieth session;

4. Recommends the following draft decision to the Commission on Human Rights for adoption:

> "The Commission on Human Rights, taking note of resolution 1997/... of ... August 1997 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, requests the Secretary-General to provide the Special Rapporteur with the assistance necessary to enable her to complete her final working paper in accordance with Commission on Human Rights decision 1997/114 of 11 April 1997 and Economic and Social Council decision 1997/... of ... July 1997."

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